

§ 36.12

§ 36.12 Temporary access.

(a) For the purposes of this section, the term:

(1) *Area* also includes public lands administered by the BLM designated as wilderness study areas or managed to maintain the wilderness character or potential thereof, and the National Petroleum Reserve—Alaska.

(2) *Temporary access* means limited, short-term (i.e., up to one year from issuance of the permit) access which does not require permanent facilities for access to State or private lands.

(b) This section is applicable to State and private landowners who desire temporary access across an area for the purposes of survey, geophysical, exploratory and other temporary uses of such non-federal lands, and where such temporary access is not affirmatively provided for in §§ 36.10 and 36.11. State and private landowners meeting the criteria of § 36.10(b) are directed to use the procedures of § 36.10 to obtain temporary access.

(c) A landowner requiring temporary access across an area for survey, geophysical, exploratory or similar temporary activities shall apply to the appropriate Federal agency for an access permit by providing the relevant information requested in the SF 299.

(d) The appropriate Federal agency shall grant the desired temporary access whenever it is determined, after compliance with the requirements of NEPA, that such access will not result in permanent harm to the area's resources. The area manager shall include in any permit granted such stipulations and conditions on temporary access as are necessary to ensure that the access granted would not be inconsistent with the purposes for which the area was established and to ensure that no permanent harm will result to the area's resources and section 810 of ANILCA is complied with.

§ 36.13 Special provisions.

(a) *Gates of the Arctic National Park and Preserve.* (1) Access for surface transportation purposes across Gates of the Arctic National Park and Preserve (from the Ambler Mining District to the Alaska Pipeline Haul Road (Dalton Highway)) shall be permitted in ac-

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cordance with the provisions of this section.

(2) Upon the filing of an application in accordance with § 36.4 for a right-of-way across the western (Kobuk River) unit of the preserve, including the Kobuk Wild River, the Secretary shall give notice in the FEDERAL REGISTER, and other such notice as may be appropriate, of a 30 day period for other applicants to apply for access. The original application and any additional applications received during the 30 day period will be reviewed in accordance with § 36.5.

(3) The Secretary and the Secretary of Transportation shall jointly prepare an environmental and economic analysis solely for the purpose of determining the most desirable route for the right-of-way and terms and conditions which may be required for the issuance of that right-of-way. This analysis shall be completed within one year and the draft thereof within nine months of the receipt of the application and shall be prepared in lieu of an EIS which would otherwise be required under section 102(2)(C) of NEPA. This analysis shall be deemed to satisfy all requirements of that Act and shall not be subject to judicial review. This analysis shall be prepared in accordance with the procedural requirements of § 36.6.

(4) The Secretaries, in preparing this analysis, shall consider the following:

(i) Alternate routes including the consideration of economically feasible and prudent alternate routes across the preserve which would result in fewer, or less severe, adverse impacts upon the preserve.

(ii) The environmental, social and economic impacts of the right-of-way including impacts upon wildlife, fish, and their habitat, and rural and traditional lifestyles including subsistence activities and measures which should be instituted to avoid or minimize negative impacts and enhance positive impacts.

(5) Within 60 days of the completion of the environmental and economic analysis, the Secretaries shall jointly agree upon a route for issuance of the right-of-way across the preserve. Such right-of-way shall be issued in accordance with the provisions of § 36.9.